



GAIL FARBER, Director

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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August 11, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**MEMORANDUM OF UNDERSTANDING BETWEEN THE VENTURA COUNTY WATERSHED
PROTECTION DISTRICT AND THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT TO
PERFORM A GEOMORPHOLOGY STUDY OF THE
UPPER SANTA CLARA RIVER WATERSHED
(SUPERVISORIAL DISTRICT 5)
(3 VOTES)**

SUBJECT

This action is to authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to enter into a Memorandum of Understanding with the Ventura County Watershed Protection District to perform a geomorphology study of the Upper Santa Clara River Watershed within the County of Los Angeles boundaries.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed project is statutorily exempt from the California Environmental Quality Act for the reasons stated in this letter and in the record of the project.
2. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to execute a Memorandum of Understanding between the County of Ventura and the Los Angeles County Flood Control District to perform a geomorphology study of the Upper Santa Clara River Watershed within the County of Los Angeles boundaries in a form approved by County Counsel and to take all steps necessary to implement the Memorandum of Understanding. The cost of the study shall not exceed \$369,075.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to authorize the Chief Engineer of the Los Angeles County Flood Control District (LACFCD) or her designee to execute, on behalf of the LACFCD, a Memorandum of Understanding (MOU) with the Ventura County Watershed Protection District (VCWPD).

The services provided by the VCWPD to perform a geomorphology study of the upper watershed will ensure technical continuity between upper and lower watersheds of the Santa Clara River system and satisfy part of the LACFCD's partnership commitment in the feasibility study in a timely and cost-effective manner.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) by developing partnerships to effectively leverage our resources using a collaborative effort.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund. The cost of the study shall not exceed \$344,930 including an 8 percent contingency for unforeseen work and a 7 percent contract administration fee for VCWPD. There are sufficient funds in the Fiscal Year 2009-10 Los Angeles County Flood Control District Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The VCWPD is a partner with the LACFCD and the U.S. Army Corps of Engineers in a Federal feasibility study of the Santa Clara River from its headwaters in the County of Los Angeles to the Pacific Ocean. The feasibility study is needed in order to carry on future technical investigations pertaining to flood protection and uses of the Santa Clara River within the Counties of Los Angeles and Ventura. One of the LACFCD's responsibilities in the feasibility study is to conduct a geomorphology study of the Upper Santa Clara River Watershed. A geomorphology study is an essential part of the feasibility study. A geomorphology study uses science to understand how the natural processes (weather, erosion, mountain building, etc.) and human impacts (development, agriculture, etc.) shape the landforms of the Santa Clara River watershed.

The MOU between the LACFCD and the VCWPD provides for the VCWPD to perform the geomorphology study through a contractor and for the LACFCD to reimburse the VCWPD for the study. The contractor previously performed a similar geomorphology study of the lower Santa Clara River Watershed within the boundaries of Ventura County. The MOU will provide for the VCWPD to revise its Scope of Work with the contractor so that the contractor performs an additional geomorphology study of the upper watershed within the County of Los Angeles boundaries. The LACFCD will reimburse the VCWPD for the contractor's services plus predetermined administrative costs.

The enclosed MOU has been reviewed by County Counsel and will be executed by counterparts in the VCWPD.

ENVIRONMENTAL DOCUMENTATION

Execution of the MOU is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15262 of the CEQA Guidelines and Section 307.B.(7) of the Environmental Reporting Procedures and Guidelines adopted by your Board on November 17, 1987. This exemption provides for feasibility or planning studies for possible future actions that have not been approved, adopted, or funded.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on current services.

Approval of this action will benefit the LACFCD by providing a collaborative approach with the VCWPD to perform a geomorphology study in a cost-effective manner and complete one of the LACFCD's responsibilities under the Federal feasibility study of the Santa Clara River Watershed.

CONCLUSION

Please return three adopted copies of this letter to the Department of Public Works, Watershed Management Division.

The Honorable Board of Supervisors

August 11, 2009

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Respectfully submitted,

A handwritten signature in cursive script that reads "Gail Farber".

GAIL FARBER

Director

GF:GH:sw

Enclosures

c: Chief Executive Office (Lari Sheehan)
County Counsel
Executive Office

MEMORANDUM OF UNDERSTANDING REGARDING THE BASELINE RIVER MORPHOLOGY STUDY FOR THE UPPER SANTA CLARA RIVER

This Memorandum of Understanding ("MOU") is made this _____ day of _____, 2009, and entered into by and between the Ventura County Watershed Protection District (hereinafter referred to as "VCWPD") and the Los Angeles County Flood Control District (hereinafter referred to as "LACFCD").

RECITALS

WHEREAS, the VCWPD, LACFD, and the United States Army Corps of Engineers in 2004 entered into a cost sharing agreement for and are committed to collaborating to complete the Santa Clara River Watershed Feasibility Study; and

WHEREAS, the Santa Clara River Watershed Feasibility Study contains a project management plan describing the work to be done as a result of the study and setting up a project management team to oversee that work; and

WHEREAS, a geomorphology study is an important component of that work; and

WHEREAS, according to the Project Management Plan for the Santa Clara River Watershed Feasibility Study, it is the responsibility of the LACFCD to carry out the geomorphology study for the entire watershed ; and

WHEREAS, Stillwater Science, under a contract with the California Coastal Conservancy has completed a comprehensive geomorphology study for the lower reach of the Santa Clara River in Ventura County and that study has been accepted by the project management team and satisfies LAFCD's obligation to conduct a study for the lower reach; and

WHEREAS, LACFCD still needs to conduct a geomorphology study for the upper reach of the Santa Clara River which lies within the Los Angeles County boundaries; and

WHEREAS, the VCWPD is authorized by law to carry on technical and other investigations and studies pertaining to control of floods and use of water both within and without the VCWPD; and

WHEREAS, the VCWPD has a contract with RBF Consulting to study Sespe Creek and LACFCD has requested that the VCWPD expand the scope of work under that agreement to include a geomorphology study for the upper reach of the Santa Clara River and otherwise manage the study; and

WHEREAS, the project management team believes that it is more efficient and cost effective for the VCWPD to manage the upper reach geomorphology study contract on behalf of the LACFCD; and

WHEREAS, the VCWPD is willing to manage the geomorphology study of the Upper Santa Clara River Watershed in Los Angeles County provided LACFCD reimburses the VCWPD for the cost thereof.

NOW, THEREFORE, the PARTIES enter into this MOU in accordance with the following terms and conditions:

ARTICLE 1 DEFINITIONS

- 1.1 DIRECTOR shall mean the Director of the VCWPD.
- 1.2 LACFCD will mean the Los Angeles County Flood Control District.
- 1.3 VCWPD shall mean the Ventura County Watershed Protection District.
- 1.4 AUTHORIZED AUTHORITY shall mean the individual authorized by each party to sign this MOU.
- 1.5 PARTY or PARTIES shall mean the LACFCD and the VCWPD.

ARTICLE 2 PURPOSE, TERM, TERMINATION AND AMENDMENTS

The purpose of the MOU is to establish a working agreement between the PARTIES with regard to contracting for and managing a geomorphology study of the upper reach of the Santa Clara River within the Los Angeles County borders. This study, together with the geomorphology study of the lower Santa Clara River within Ventura County, will complete the requirement for the LACFCD to provide a geomorphology study of the entire watershed.

The term of this MOU shall commence on the day and date written above and shall be effective for two years following this commencement date. The MOU shall not be renewed unless any PARTY provides written notice of the need to renew no later than thirty (30) days prior to the termination date.

ARTICLE 3 RESPONSIBILITIES OF THE PARTIES

A. VCWPD Responsibilities:

1. The VCWPD shall negotiate a modification to the Sespe Creek Hydrology Hydraulics and Sedimentation Analysis contract, to include a geomorphology study of the upper reach of the Santa Clara River (Upper Reach Study). The modification for the Upper Reach Study shall have a maximum amount of \$344,930 (including contingencies), shall provide that invoices for work performed on the Upper Reach Study are subject to review and approval by both the VCWPD and LACFCD, and that the VCWPD may withhold payment for work performed on the Upper Reach Study unless and until approved by LACFCD.
2. Subject to reaching an agreement with its consultant on a change order/modification of the Upper Reach Study on the terms set forth in Section A.1., the VCWPD shall manage the geomorphology study for the upper reach of the Santa Clara River in accordance with its standard policies and procedures for managing consulting contracts, as modified by this MOU.
3. The VCWPD shall forward upon receipt from its consultants invoices and deliverables for the Upper Reach Study in an electronic format to LACFCD. The VCWPD further agrees that the costs for all work by the consultant shall be duly documented and such documentation provided to the LACFCD no less than quarterly and at the end of the consultant contract.

B. LACFCD Responsibilities:

1. LACFCD shall reimburse the VCWPD for the full amount of all approved invoices for work performed on the Upper Reach Study, and shall pay the VCWPD a fee for contract administration at a rate of seven percent (7%) of each approved invoice for work on the Upper Reach Study.
2. The reimbursements and payments described in Section B.1. shall be due within thirty (30) days of receipt of each approved invoice. .
3. LACFCD shall notify the VCWPD of any objections to all or any part of any invoice for work performed on the Upper Reach Study within ten (10) days of receipt of each invoice, otherwise the invoice shall be deemed approved and LACFCD waives any and all objections thereto. If an objection is made within the ten (10) day period, the PARTIES shall meet and confer in an effort to resolve any such objection.
4. LACFCD agrees to hold harmless, defend, and indemnify the VCWPD for any claim made by the consultant for late payment or non-payment of any invoice for performing the Upper Reach Study, if such late payment or non-payment was caused by LACFCD.

ARTICLE 4 ADMINISTRATION AND FUNDING

This MOU shall be jointly administered by the PARTIES, and each PARTY'S administrative activities hereunder shall be regarded as in-kind services independently funded by and performed at the discretion of the PARTIES. The cost of the Upper Reach Study, including the VCWPD'S contract management activities, shall be credited as part of LACFCD'S local contribution to the Santa Clara River Watershed Feasibility Study (Feasibility Study).

ARTICLE 5 MISCELLANEOUS PROVISIONS

- 5.1 **APPROVAL BY PARTIES:** This MOU and any amendments thereto shall not be binding on either PARTY unless executed by the PARTY'S AUTHORIZED AUTHORITY.
- 5.2 **COMPLETE AGREEMENT:** This MOU constitutes the entire agreement between the LACFCD and the VCWPD with respect to the subject matter of this MOU. No prior oral or written understandings or agreements between the PARTIES with respect to the subject matter of this MOU are incorporated herein and any such understandings or agreements are entirely superseded by this MOU.
- 5.3 **AMENDMENTS:** This MOU may not be amended without a written amendment signed by each PARTY'S AUTHORIZED AUTHORITY.
- 5.4 **INTERPRETATION:** This MOU shall be interpreted and construed reasonably and neither for nor against any of the PARTIES, regardless of the degree to which any of the PARTIES participated in its drafting.
- 5.5 **SEVERABILITY:** If any term, provision, covenant, or condition of this MOU is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the MOU shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- 5.6 **INDEPENDENT CONTRACTORS:** The PARTIES agree that they are, and at all times shall be, independent contractors of, and not the agent of the other. This MOU is intended for the sole benefit of the PARTIES and not for the benefit of any third party not a signatory hereto.
- 5.7 **GOVERNING LAW:** This MOU shall be governed by and construed in accordance with the laws of the State of California.
- 5.8 **NONDISCRIMINATION:** In the performance of this MOU, the PARTIES shall abide by all applicable federal, state and local laws, regulations, or ordinances pertaining

to discrimination and shall not discriminate against any person, customer, servant or employee on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

- 5.9 INTELLECTUAL PROPERTY: By entering into this MOU no PARTY is deemed to be transferring any intellectual property rights, including but not limited to proprietary information, patents and trademarks. Each PARTY shall respect the intellectual property rights of the others, and shall not disclose any confidential information without prior written consent of the PARTY that has developed the confidential information.
- 5.10 In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by any act or omission occurring in the performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.
- 5.11 This MOU may be executed simultaneously in counterpart, each of which shall be deemed and original, but together shall constitute but one and the same instrument.
- 5.12 NOTICES: All notices or correspondence under this MOU shall be given to the following addresses and shall be deemed delivered on the date of actual delivery or on the third business day after the date of mailing.

LACFCD:

Chief Engineer, Los Angeles County Flood Control District
900 South Fremont Avenue
Alhambra, California 91803-1331

VCWPD:

Director, Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1600

IN WITNESS WHEREOF, the PARTIES have executed this MOU on the dates indicated below.

Los Angeles County Flood Control District

_____ Date _____
By: Gail Farber
Chief Engineer, Los Angeles County Flood Control District

Watershed Protection District

_____ Date _____
By: Tom Lagier
Director, Ventura County Watershed Protection District